

APR 04 2006

Practitioner's Docket No. MIT-152AUS (1118/A04)

PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: McBean et al.

Application No.: 10/718,913  
Filed: November 21, 2003  
For: Powered Orthotic DeviceGroup No.: 3764  
Examiner: Michael A. Brown  
Conf. No.: 2397Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450TRANSMITTAL OF INFORMATION DISCLOSURE STATEMENT  
BEFORE MAILING DATE OF EITHER A FINAL ACTION  
OR NOTICE OF ALLOWANCE (37 C.F.R. § 1.97(c))TIME OF TRANSMITTAL OF ACCOMPANYING  
INFORMATION DISCLOSURE STATEMENT

1. The information disclosure statement transmitted herewith is being filed *after* three months of the filing date of this national application or the date of entry of the national stage as set forth in Section 1.491 in an international application or after the mailing date of the first Office action on the merits, whichever event occurred last but *before* the mailing date of either

- (1) a final action under § 1.113 or  
(2) a notice of allowance under § 1.311

whichever occurs first.

CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10\*  
(When using Express Mail, the Express Mail label number is mandatory;  
Express Mail certification is optional.)

I hereby certify that, on the date shown below, this correspondence is being:

## MAILING

☐ deposited with the United States Postal Service in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

37 C.F.R. § 1.8(a)

☐ with sufficient postage as first class mail.

37 C.F.R. § 1.10\*

☐ as "Express Mail Post Office to Addressee"

Mailing Label No. \_\_\_\_\_ (mandatory)

## TRANSMISSION

☒ facsimile transmitted to the Patent and Trademark Office, (571) 273-8300.

Date: April 4, 2006

Signature

Kathryn E. Noll

(type or print name of person certifying)

\* Only the date of filing (§ 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under § 1.8 continues to be taken into account in determining timeliness. See § 1.703(f). Consider "Express Mail Post Office to Addressee" (§ 1.10) or facsimile transmission (§ 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

Transmittal of Information Disclosure Statement before Mailing Date of Either a Final Action Or Notice of Allowance—page 1 of 2

**STATEMENT**

**FEE**

2. Accompanying this transmittal is the fee for submission of an information disclosure statement under section 1.97(c). (\$180.00)

**FEE PAYMENT**


3. Applicant elects the option to pay the fee set forth in 37 C.F.R. § 1.17(p) for submission of an information disclosure statement under § 1.97(c) (\$180.00).

Fee due \$180.00

**METHOD OF PAYMENT OF FEE**

4. Please charge \$180.00 to Deposit Account No. 19-4972. Please charge any additional fees required by this paper or credit any overpayment to Deposit Account No. 19-4972.

DATE: April 4, 2006

  
Kathryn E. Moll  
Reg. No. 48,811  
BROMBERG & SUNSTEIN LLP  
Customer Number 02101  
125 Summer Street  
Boston, MA 02110-1618  
U.S.

01118/00A04 482972.1

Transmittal of Information Disclosure Statement before Mailing Date of Either a Final Action Or Notice of Allowance--page 2 of 2

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BROMBERG & SUNSTEIN LLP

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APR 04 2006

## FACSIMILE

TO	Commissioner for Patents Examiner Michael A. Brown	FAX	(571) 273-8300
FROM	Kathryn E. Noll	PAGES	9 (INCLUDING THIS SHEET)
DATE	April 4, 2006		
RE	Information Disclosure Statement		
OUR FILE	MIT-152AUS (1118/A04)		

### COMMENTS

Please See Attached.

PLEASE NOTIFY BROMBERG & SUNSTEIN LLP AT (617) 443-9292, IF THERE ARE ANY PROBLEMS WITH THIS TRANSMISSION.

THIS TRANSMITTAL IS INTENDED ONLY FOR THE ADDRESSEE, AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED OR CONFIDENTIAL. IF THE RECIPIENT OF THIS TRANSMITTAL IS NOT THE ADDRESSEE, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE.

01118/00A04 482991.1

APR 04 2006

Practitioner's Docket No. MIT-152AUS (1118/A04)

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Alexandria, VA 22313-1450

## INFORMATION DISCLOSURE STATEMENT

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**CERTIFICATION UNDER 37 C.F.R. SECTIONS 1.8(a) and 1.10\***  
(When using Express Mail, the Express Mail label number is mandatory;  
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I hereby certify that, on the date shown below, this correspondence is being:

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37 C.F.R. SECTION 1.8(a)

37 C.F.R. SECTION 1.10\*

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## TRANSMISSION

☒ transmitted by facsimile to the Patent and Trademark Office, (571) 273-8300.

Signature

Kathryn E. Noll

(type or print name of person certifying)

Date: April 4, 2006

## \*WARNING:

Each paper or fee filed by "Express Mail" must have the number of the "Express Mail" mailing label placed thereon prior to mailing. 37 C.F.R. section 1.10(b).

"Since the filing of correspondence under section 1.10 without the Express Mail mailing label thereon is an oversight that can be avoided by the exercise of reasonable care, requests for waiver of this requirement will not be granted on petition." Notice of Oct. 24, 1996, 60 Fed. Reg. 56,439, at 56,442.

**NOTE:** "An information disclosure statement shall be considered by the Office if filed by the applicant:

- (1) Within three months of the filing date of a national application;
- (2) Within three months of the date of entry of the national stage as set forth in section 1.49] in an international application; or
- (3) Before the mailing date of a first Office action on the merits, whichever event occurs last." 37 C.F.R. section 1.97(b).

**NOTE:** "Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section." 37 C.F.R. section 1.56(a).

"Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

- (1) each inventor named in the application;
- (2) each attorney or agent who prepares or prosecutes the application; and
- (3) every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application." 37 C.F.R. section 1.56(c).

**NOTE:** The "duty as described in section 1.56 will be met so long as the information in question was cited by the Office or submitted to the Office in the manner prescribed by sections 1.97(b) - (d) and 1.98 before issuance of the patent." Notice of January 9, 1992, 1135 O.G. 13-25 at 17.

**WARNING:** "No information disclosure statement may be filed in a provisional application." 37 C.F.R. section 1.51(b).

#### **List of Sections Forming Part of This Information Disclosure Statement**

The following sections are being submitted for this Information Disclosure Statement:

(check sections forming a part of this statement: discard unused sections and number pages consecutively)

1. ☒ Preliminary Statements
2. ☒ Forms PTO/SB/08A and 08B (substitute for Form PTO-1449)
3. ☐ Statement as to Information Not Found in Patents or Publications
4. ☐ Identification of Prior Application in Which Listed Information Was Already Cited and for Which No Copies Are Submitted or Need Be Submitted
5. ☐ Cumulative Patents or Publications
6. ☒ Copies of Listed Information Items Accompanying This Statement
7. ☐ Concise Explanation of Non-English Language Listed Information Items
  - 7A. ☐ JEPO Search Report
  - 7B. ☐ English Language Version of EPO Search Report
8. ☐ Translation(s) of Non-English Language Documents
9. ☐ Concise Explanation of English Language Listed Information Items (Optional)
10. ☒ Identification of Person(s) Making This Information Disclosure Statement

(complete the following, if appropriate)

Sections , respectively, have been continued on ADDED PAGE(S).

**NOTE:** "Once the minimum requirements are met, the examiner has an obligation to consider the information." Notice of April 20, 1992 (1138 O.G. 37-41, 37).

(Information Disclosure Statement--page 2 of 6)

### Section 1. Preliminary statements

Applicants submit herewith patents, publications or other information, of which they are aware that they believe may be material to the examination of this application, and in respect of which, there may be a duty to disclose.

The filing of this information disclosure statement shall not be construed as a representation that a search has been made (37 C.F.R. section 1.97(g)), an admission that the information cited is, or is considered to be, material to patentability, or that no other material information exists.

The filing of this information disclosure statement shall not be construed as an admission against interest in any manner. Notice of January 9, 1992, 1135 O.G. 13-25, at 25.

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APR 04 2006

**SECTION 2. FORMS PTO/SB/08A and 08B (formerly Form PTO-1449)****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicants:	McBean et al.	Attorney Docket:	MIT-152AUS
Serial No:	10/718,913	Art Group Unit:	3764
Date Filed:	November 21, 2003	Examiner Name:	Michael A. Brown
Invention:	Powered Orthotic Device	Conf. No.:	2397

**LIST OF PATENTS AND PUBLICATIONS FOR  
APPLICANT'S INFORMATION DISCLOSURE STATEMENT**

U.S. PATENT DOCUMENTS					
Examiner Initials	Reference Number	Document Number	Issue Date	Inventor	Class/Subclass
	AF	US 4,030,141	June 21, 1977	Graupe	
	AG	US 4,209,860	July 1, 1980	Graupe	
	AH	US 4,650,492	March 17, 1987	Barkhordar et al.	
	AJ	US 4,685,925	August 11, 1987	Childress et al.	
	AJ	US 5,980,435	November 9, 1999	Joutras et al.	
	AK	US 6,532,383 B2	March 11, 2003	Maloney et al.	
	AL	US 6,660,042 B1	December 9, 2003	Curcie et al.	
	AM	US 6,880,487 B2	April 19, 2005	Reinkensmeyer et al.	
	AN	US 6,944,496 B2	September 13, 2005	Jeong et al.	

U.S. PATENT PUBLICATION DOCUMENTS					
Examiner Initials	Reference Number	Document Number	Publication Date	Inventor	Class/Subclass
	AO	US 2003/0064869 A1	April 3, 2003	Reinkensmeyer et al.	

Examiner Signature: \_\_\_\_\_

Date Considered: \_\_\_\_\_

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; draw line through citation *if not* in conformance and not considered. Include copy of this form with next communication to applicant.

(Information Disclosure Statement—page 4 of 6)

**Section 6. Copies of Listed Information Items Accompanying This Statement**

*NOTE: 37 C.F.R. section 1.98(a)(2) requires that any information disclosure statement filed under section 1.97 shall include: "A legible copy of: (i) Each U.S. and foreign patent; (ii) Each publication or that portion which caused it to be listed; and (iii) All other information or that portion which caused it to be listed, except that no copy of a U.S. patent application need be included..."*

*NOTE: The wording in section 1.98(a)(2)(iii) makes it clear that the requirement to submit a copy of each item of information listed in an information disclosure statement does not apply to the citation of a U.S. patent application. Notice of January 9, 1992, 1135 O.G. 13-25, at 14.*

Legible copies of all items listed in Forms PTO/SB/08A and 08B (substitute for Form PTO-1449) accompany this information statement.

*(complete the following, if applicable)*

☒ Exception(s) to above:

**U.S. patent citations are not included pursuant to the United State Patent and Trademarks Office's September 21, 2004 waiver of the copy requirement in 37 CFR 1.98 for cited pending U.S. patent citations when the patent citations are available in the USPTO's IFW system.**

☐ Items in prior application, from which an earlier filing date is claimed for this application, as identified in Section 4.

☐ Cumulative patents or publications identified in Section 5.

(Information Disclosure Statement--page 5 of 6)



**Section 10. Identification of Person(s) Making This Information Disclosure Statement**

The person making this certification is

*(check each applicable item)*

- (a) ☐ the inventor(s) who signs below

\_\_\_\_\_  
SIGNATURE OF INVENTOR

\_\_\_\_\_  
*(type name of inventor who is signing)*

- (b) ☐ an individual associated with the filing and prosecution of this application (37 C.F.R. section 1.56(c))

\_\_\_\_\_  
SIGNATURE OF INVENTOR

\_\_\_\_\_  
*(type name of inventor who is signing)*

- (c) ☒ the practitioner who signs below on the basis of the information:

*(check each applicable item)*

☒ supplied by the inventor(s).

☐ supplied by an individual associated with the filing and prosecution of this application. (37 C.F.R. section 1.56(c)).

☐ in the practitioner's file.


Date: April 4, 2006

Reg. No.: 48,811

Tel. No.: (617) 443-9292

Customer No.: 02101

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SIGNATURE OF PRACTITIONER

\_\_\_\_\_  
Kathryn E. Noll

\_\_\_\_\_  
*(type or print name of practitioner)*

\_\_\_\_\_  
125 Summer Street, 11<sup>th</sup> Floor

\_\_\_\_\_  
Boston, MA 02110-1618

(Information Disclosure Statement—page 6 of 6)